

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Shanna Floyd,

Plaintiff

v.

Parole and Probation, et al.,

Defendants

2:14-cv-01882-JAD-CWH

Order Denying Motions

[ECF Nos. 10, 12]

Plaintiff Shanna Floyd brings this § 1983 action for events she claims occurred while she was a pretrial detainee at the Nevada Southern Detention Center. Magistrate Judge Hoffman screened and dismissed Floyd's original claims and gave her leave to file an amended complaint.¹ Floyd filed an amended complaint,² but it has not been screened, and she has not yet been directed to serve it.

Floyd has filed two motions. The first asks the court to follow the U.S. Supreme Court's opinion in *Haines v. Kerner*,³ and liberally construe her pleadings.⁴ The second asks for a default judgment against the defendants because they have not answered.⁵ I deny both motions.

Floyd's motion to invoke the principles in *Haines v. Kerner* is unnecessary. This court is duty bound to follow binding Supreme Court precedent, and no motion asking the court to do so is required to secure that liberal treatment. Accordingly, because no relief is necessary, Floyd's motion requesting the court liberally construe her complaint⁶ is denied as unnecessary.

Her request for a default judgment is denied because it is premature. Before the court can

¹ ECF No. 2, 8.

² ECF No. 9.

³ *Haines v. Kerner*, 404 U.S. 519, 520–21 (1972).

⁴ ECF No. 10.

⁵ ECF No. 12. Floyd's motion is erroneously titled "Defendants [sic] Motion for Default Judgement Pursuant to F.R.C.P. Rule 55(b)(2)."

⁶ ECF No. 10.

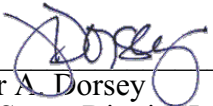
1 consider entering a default judgment under Rule 55(b) of the Federal Rules of Civil Procedure, the
2 plaintiff must secure the entry of the defendant's default under Rule 55(a). Not only has that not yet
3 occurred, it cannot yet occur. Before default may be entered, the plaintiff must show "by affidavit or
4 otherwise" that the defendant has been properly served with legal process and has failed to appear
5 within the time provided by the rules.⁷ Not only has Floyd not demonstrated that any defendant has
6 been properly served with legal process, the magistrate judge expressly stated in the initial screening
7 order that "The [c]ourt will not order service at this time."⁸ So, service may be ordered after Floyd's
8 amended complaint has been screened, but it has not even been authorized in this case yet. For these
9 reasons, I deny Floyd's motion for default judgment.⁹

10 Conclusion

11 Accordingly, IT IS HEREBY ORDERED that Floyd's motion seeking to invoke *Hainses v.*
12 *Kerner* [ECF No. 10] is **DENIED** as unnecessary; and

13 IT IS FURTHER ORDERED that Floyd's motion for default judgment [ECF No. 12] is
14 **DENIED** as premature.

15 Dated this 6th day of June, 2016.

16 
17 Jennifer A. Dorsey
18 United States District Judge
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26 ⁷ Fed. R. Civ. P. 55(a).

27 ⁸ ECF No. 2 at 6.

28 ⁹ ECF No. 12.